



Judge Guyton properly rejected them in his R&R [Doc. 94].

The court has jurisdiction pursuant to 18 U.S.C. § 3231 because this case involves an “offense against the laws of the United States.” The Defendant is charged with violating 21 U.S.C. § 841(a)(1), 841(b)(1)(B), and (C), relating to the distribution of illegal drugs. The Defendant was also charged with violating 18 U.S.C. § 924(c)(1), which prohibits the possession of a firearm in furtherance of a drug trafficking crime. The incidents giving rise to the charge occurred in the Eastern District of Tennessee.

Accordingly, the Defendant’s Motion to Dismiss [Doc. 47] is **DENIED**.

## **II. Motion to Dismiss [Doc. 27]**

The Defendant argues that the indictment should be dismissed because he was arrested without probable cause. [Doc. 50]. Judge Guyton issued a warrant [Doc.2] for the Defendant’s arrest pursuant to a criminal complaint [Doc.1]. The criminal complaint incorporated the affidavit of ATF Agent Jackie D. Herndon, which states that confidential informants made controlled and recorded purchases of crack cocaine from the Defendant on multiple occasions. The court finds that there was sufficient probable cause supporting the arrest warrant.

For the reasons articulated by Judge Guyton, the Defendant’s Motion to Dismiss [Doc. 50] is **DENIED**.

## **III. Motion to Dismiss [Doc. 32]**

The Defendant argues that the indictment should be dismissed because the government does not have the “proper evidence for the nature of charges pending against” him. [Doc. 32]. The grand jury returned an Indictment [Doc. 6] against the Defendant on November 18, 2008, six days after his arrest on November 12, 2008 [Doc. 13]. The grand

jury returned a Superseding Indictment [Doc. 22] on December 16, 2008.

The Defendant argues that the prosecution may only prove its case with the audio recordings of the controlled drug purchases. This argument is without merit. As Judge Guyton explained in the R&R [Doc. 94], claims that the allegations in the indictment are false are not matters for the court to determine pretrial. *Universal Milk Bottle Service v. United States*, 188 F.2d 959, 962 (6th Cir. 1951). Such claims are matters reserved for the jury. Accordingly, the Defendant's Motion to Dismiss [Doc. 32] is **DENIED**.

#### **IV. Motion to Dismiss [Doc. 50]**

The Defendant requests that the indictment be dismissed because his trial has not commenced within seventy days of his indictment or initial appearance. [Doc. 50]. For the reasons articulated by Judge Guyton, no speedy trial violation has occurred. The Defendant's Motion to Dismiss [Doc. 50] is **DENIED**.

For the foregoing reasons, as well as the reasons articulated by Judge Guyton in his R&R [Doc. 94], the Defendant's objections to the R&R [Doc. 101] are hereby **OVERRULED** in their entirety, and the R&R [Doc. 122] is **ACCEPTED IN WHOLE**. Accordingly, the following motions by the Defendant are **DENIED**:

- **Motion to Dismiss [Doc. 47]**
- **Motion to Dismiss [Doc. 27]**
- **Motion to Dismiss [Doc. 32]**
- **Motion to Dismiss [Doc. 50]**

**ENTER:**

s/ Thomas W. Phillips  
United States District Judge